

PROCEEDINGS OF THE HISTORIC CONSERVATION BOARD

MONDAY, OCTOBER 24, 2005

3:00 P.M., J. MARTIN GRIESEL ROOM, CENTENNIAL PLAZA II

The Historic Conservation Board met at 3:00 P.M., in the J. Martin Griesel Room, Centennial Plaza II, with members: Kirk, Kreider, Raser, Senhauser, Spraul-Schmidt and Sullebarger present. Absent: Bloomfield, Chatterjee, and Wallace.

MINUTES

The Board unanimously approved the minutes of the Monday, October 10, 2005 meeting with corrections (motion by Spraul-Schmidt, second by Raser).

Mr. Kreider swore in attendants present to give testimony before the Board.

CERTIFICATE OF APPROPRIATENESS, 4100-4110 HAMILTON AVENUE, NORTHSIDE NBD HISTORIC DISTRICT

Mr. Senhauser began the meeting by acknowledging that Ely Ryder, legal counsel for the Northside community, was a client on a separate, unrelated matter. Mr. Senhauser stated that as chairman he voted only to break a tie. If there were no objections, he would act as chairman for the entire meeting. No objections were voiced.

Staff member Adrienne Cowden presented a report for a Certificate of Appropriateness for a surface parking lot, signage, and landscaping to serve new retail construction at 4100-4110 Hamilton Avenue. She reminded the Board that a preliminary design review was held on June 13, 2005. An application for a Certificate of Appropriateness was presented at a subsequent meeting on October 10, 2005; at that time Tim Burke, attorney for Myron Johnson Lumber Company, and community members agreed to postpone consideration of the application until October 24, 2005. Ms. Cowden outlined the Board's review authority and summarized the staff report, pointing out plan revisions made since the October 10, 2005 meeting.

Ms. Sullebarger asked staff if the proposed sign met Zoning Code requirements and how it could be reduced in size. Ms. Cowden indicated that although the Board had recently approved a ground sign for the Northside library, ground signs were not prevalent along Hamilton Avenue in the historic district. Staff indicated that until a complete sign package was submitted, it could not determine whether the proposed ground sign would have to be reduced to meet the Zoning Code.

Ms. Sullebarger thanked Jeff Stine, Architecture and Urban Design, for his comments on the project. Mr. Stine was present to answer questions from the Board about the Hamilton Avenue streetscape improvements. In reply to Ms. Sullebarger, Mr. Stine critiqued the proposed landscaping. He felt that the planting was too informal for a business district and suggested the applicant research a more appropriate scheme. Mr. Stine also addressed the proposed driveway aprons on Hamilton Avenue and Blue Rock. Recognizing Hamilton Avenue's pedestrian character, he stated that the sidewalk should continue across the Hamilton Avenue and Blue Rock driveways. He further commented that the new Blue Rock driveway should match the Hamilton Avenue driveway, which was designed as part of the streetscape improvements.

Mr. Senhauser suggested that Walgreens' light standards should match the height of the existing light standards on Hamilton Avenue and that a specific height should be removed from the staff recommendation.

Mr. Ryder asked to address the Board and requested that the application be held until the Zoning Board of Appeals acted on his clients' appeal of the zoning interpretation of William Langevin, Director of the Department of Buildings & Inspections, regarding the building size. Furthermore,

Mr. Ryder disagreed with the Law Department's interpretation of the Board's purview. He asserted his opinion that the Board had design review authority over the entire site; it could therefore instruct the applicant to move the building to Hamilton Avenue and require a variance for the building size.

Mr. Burke objected to Mr. Ryder's request and asked the Board to make a decision based on the information provided to date. He stated that if the Zoning Board of Appeals determined Mr. Langevin's interpretation was incorrect, his client would file for a Zoning Variance. Mr. Burke pointed out that historically the property has never had a building sited on Hamilton Avenue. Even the gas station that once occupied the site had a setback of at least 100' from the street.

Mr. Ryder restated his assertion that the Board has legal jurisdiction to require a Zoning Variance. He also referred to the conservation guidelines, which describe buildings as sitting on the front property line and indicated the setback of new buildings should be sited on the sidewalk and 3'-0" to 10'-0" from adjacent buildings.

Mr. Kirk requested clarification on the Board's jurisdiction. Mr. Forwood summarized the guidance given by the Law Department. He explained that the Board has jurisdiction over the entire property for any Zoning Variances, but its design review authority was limited to that portion of property within the historic district boundary. If the Zoning Board of Appeals determined Mr. Langevin's interpretation of the Zoning Code was in error, the building would require a variance for its size. Mr. Forwood indicated that staff's recommendation may have been different had it reviewed the entire site.

Mr. Burke introduced Anne McBride, McBride Dale Clarion, as the project's land use representative. Ms. McBride described recent plan modifications and addressed staff's recommendations. She indicated that the applicant was willing to 1) reduce the size of the proposed ground sign and to illuminate only the lettering, 2) reassess the perimeter landscaping and fencing, 3) incorporate an additional interior planting island, and 4) match the height of the Hamilton Avenue light standards although this may require additional fixtures. Ms. McBride requested clarification on the recommendation regarding plan revisions. Mr. Senhauser indicated that future Board reviews relied, in part, on the outcome of the Zoning Board of Appeals hearing.

In response to Mr. Raser, Ms. McBride confirmed that the Hamilton Avenue apron would be flared.

Mr. Senhauser asked if Anchor Properties had considered alternative floor plans / layouts for the site that were not company prototypes. Michael Ricke, Anchor Properties, responded that they had spent months analyzing the site and considered a number of alternatives including placing the building on Hamilton Avenue, with parking behind. Mr. Ricke stated this option was ultimately discarded since female customers would not feel safe parking behind the store. He acknowledged that no consideration was given to the shape of the store.

In reply to Ms. Spraul-Schmidt Mr. Ricke stated that there are no Walgreens with a rear entrance. He emphasized that although this Walgreens would be similar to that on Montgomery Road in Norwood, it did not represent a prototypical design. The two-story height and the second floor windows were designed to lend the store a more urban appearance.

Mr. Ricke told Mr. Kreider that the Norwood store has three street frontages and a corner entrance. The proposed site has only two street frontages and required a different design solution.

The Board agreed to allow Mr. Ryder and Mr. Burke to question the applicant and interested parties who testified in front of the Board.

Mr. Ryder first questioned Mr. Ricke regarding the project. He presented a floor plan of the Walgreens and asked that it be marked "Exhibit A." Mr. Ryder asked Mr. Ricke if he had ever viewed the floor plan in Exhibit A. Mr. Burke objected to the question citing that it had no bearing on the application before the Board. Mr. Senhauser stated that even though Mr. Ryder's question was relevant to the entire project, questions should be limited to the application for the parking lot, signage, and landscaping.

Paul Green identified himself as a Northside resident, a business owner, and the Northside Community Council president. He pointed out that Northside includes a variety of businesses and believed Walgreens could be a great asset. However, he felt that Walgreens refused to make the necessary compromises to fit into the pedestrian oriented business district, and that the Northside Community Council expected Walgreens to follow the historic district conservation guidelines. He hoped the Board would act to preserve the integrity of the historic district. In response to Mr. Burke, Mr. Green agreed that Northside and City residents drive to and from neighborhood businesses. Upon inquiry by Mr. Ryder, Mr. Green stated that Northside has a number of community parking lots, which are located behind the Hamilton Avenue businesses.

Bruce Demske indicated that the project should be considered as a whole and assessed accordingly. He pointed out that he had complied with the conservation guidelines when installing signage on his property on Hamilton Avenue and that he expected the same of Walgreens. He believed Walgreens had not complied with the guidelines and asked the Board to deny the requested Certificate of Appropriateness.

Maureen Wood concurred with Mr. Green and Mr. Demske's testimony. She has lived in the community for 25 years and moved to the community because of the pedestrian friendly business strip. She said she was glad that a site, which is an eyesore, was finally being addressed, and she hoped it was done well. Mr. Burke asked Ms. Wood what she thought would happen to the site if the Walgreens was not built. She responded that whatever is put there it should meet the Northside Historic District Guidelines.

Brian Mueller identified himself as the developer of the Moline Court townhouses located nearby the project. Mr. Mueller stated that the proposal did not meet either the current or the proposed zoning for the property. He pointed out that the Kentucky Fried Chicken/Taco Bell (4147 Hamilton Avenue) is located at the sidewalk and expressed his belief that Walgreens should work with the community to identify a better design solution. Mr. Mueller thanked the applicant for addressing those recommendations outlined in the staff report. He hoped the Board would consider the visual impact of this development on the community. Mr. Mueller concluded by stating that the developer has not adequately addressed transportation issues. In response to Mr. Burke Mr. Mueller stated that a zone change to CC-P would require the building to be brought to the sidewalk.

Michael Wizer, resident of 1 Moline Court and developer of the Moline Court townhouses, agreed with the testimony of his business partner Brian Mueller and previous speakers from the neighborhood. Mr. Wizer indicated that he sent e-mails to City staff including Martha Kelly, in the Department of Transportation and Engineering, requesting a traffic study. Mr. Wizer stated that continuing Langland Street south into Blue Rock Avenue would create the same three street configuration as the Norwood Walgreens. Mr. Wizer expressed his belief that there are other viable design solutions for this site. Mr. Burke asked when Mr. Wizer last contacted Ms. Kelly; Ms. Cowden responded that e-mail correspondence from Mr. Wizer to city staff (including Ms. Kelly) was dated October 12, 2005.

Robert Sala, architect and president of the Northside Business Association, stated that he hoped the project review did not hang on a legal loophole and expressed his opinion that the Law Department had erred in its guidance in limiting the Board's jurisdiction. Mr. Sala requested that the Board not take any action until after the Zoning Board of Appeals hearing.

In response to questions from Mr. Ryder, Mr. Sala stated that the parking lot and the Hamilton Avenue driveway hindered safe pedestrian access to the drug store and nearby businesses. He argued that the parking lot would detract from the business corridor's pedestrian character, create a visual gap in the historic district, and negatively impact traffic on Hamilton Avenue. Upon inquiry of Mr. Burke, Mr. Sala acknowledged that he was not a traffic engineer.

Mr. Ryder recalled Ms. McBride and asked her to explain how pedestrians would approach the store. She pointed out a walkway leading from Blue Rock Avenue to the entrance and another walkway from Hamilton Avenue that cross the parking lot. Ms. McBride stated that pedestrians would use whichever walkway was closest to them when approaching the store.

Mr. Ryder recalled Mr. Ricke. In response to Mr. Ryder Mr. Ricke stated that he was not aware of any traffic studies for Blue Rock Avenue and that Ms. Kelly informed him that a traffic study was not necessary.

Mr. Burke recalled Mr. Ricke and asked him to recount any discussions he may have had about traffic issues. Mr. Ricke reiterated his statement that a traffic study had not been requested yet. He stated that the Department of Transportation and Engineering anticipated widening Blue Rock Avenue to three lanes and pointed out that the buffer along Blue Rock was increased for this reason. Mr. Ricke also stated that Walgreens encourages pedestrian access.

In response to Mr. Raser Mr. Ricke confirmed that the parking lot would not be developed independently of the Walgreens.

Mr. Kreider swore in Martha Kelly, Department of Transportation and Engineering

Ms. Kelly stated her title as Principle Engineer in the Department of Transportation and Engineering. She acknowledged that she conducted a preliminary review of the proposal, and that although she has not been to the site, the driveway location appeared appropriate for this type of development. She emphasized that she conducts a complete analysis once an applicant files for a building permit.

In response to Mr. Ryder, Ms. Kelly disagreed that curb cuts were unfriendly to pedestrians. She stated that curb cuts and driveways were a fact of life and typically sidewalks go completely across the opening. She indicated that Mr. Ricke has been informed of City standards / expectations regarding curb cuts and driveways.

Margaret Warminski stated that the Cincinnati Preservation Association (CPA) had concerns about the project. She commented that the proposed Walgreens had the appearance of a big box, and it was unfortunate that the HCB only had jurisdiction on a small portion of the project within the district boundary. Ms. Warminski stated that CPA hoped the Board would table the project until the Zoning Board of Appeals rendered a decision on the appeal.

Mr. Burke asked Ms. Warminski to describe what she considered to be a big box store. Ms. Warminski stated that in her opinion the Walgreens was a big box compared to nearby historic buildings that had only first floor commercial space. He asked for her opinion about obscuring a National Register listed building such as the former railroad depot with new construction. Ms. Warminski responded that new development sometimes requires trade-offs. Placing the

Walgreens on Hamilton Avenue would block views to the railroad depot, but it would also help preserve the visual integrity of the district.

Mr. Raser commented that the site and project presented a tough design problem but he believed that a pedestrian friendly building with a drive through could be compatible with the Northside NBD historic district. He felt that the proposal did not meet that test or the conservation guidelines; Mr. Raser felt compelled to vote against granting a Certificate of Appropriateness.

Mr. Kreider agreed with Mr. Raser. He pointed out that extending Langland Avenue could provide a third street frontage and other design options, such as that utilized in Norwood. Mr. Kreider expressed his opinion that the Board need not limit its review to the parking lot exclusively since it is accessory to the Walgreens store and an integral part of the larger scheme. He quoted the guidelines regarding new construction and concluded that the proposal as a whole fails to comply. He said he would vote to deny a Certificate of Appropriateness.

Ms. Sullebarger expressed her disappointment that the applicant had not cooperated fully with Northside residents and business owners and that she intended to vote against granting the Certificate of Appropriateness.

Ms. Spraul-Schmidt stated she too would vote against the proposal. Regardless of its previous use, Ms. Spraul-Schmidt stated the site was now an open lot and new construction should be sensitive the Hamilton Avenue streetscape. She added that she has seen Anchor Properties and Walgreens adapt its stores to other specific sites, such as the new store at 6th & Race Streets, and she had faith in the company's creativity.

Mr. Kirk stated that the science of retail facilities was precise. He suggested that the footprint and plan of the proposed building had evolved based on Walgreens' experience over time. He acknowledged that moving the building forward to Hamilton Avenue might create other problems.

BOARD ACTION

The majority of Board members present voted (motion by Spraul-Schmidt, second Sullebarger, Kirk abstained) to deny the application for a Certificate of Appropriateness for the proposed parking lot, landscaping, and signage at 4100-4110 Hamilton Avenue.

CERTIFICATE OF APPROPRIATENESS & ZONING VARIANCE, 1639-1641 VINE STREET, OVER-THE-RHINE HISTORIC DISTRICT

Staff member Adrienne Cowden presented the staff report for a Certificate of Appropriateness and Zoning Variance to install an 8'-0" metal picket fence at 1639-1641 Vine Street. Ms. Cowden stated that the rear yard will be used for parking and as an outdoor space for tenants. Currently, a combination of 4'-0" and 6'-0" metal picket fencing that encloses most of the rear yard does not act as an effective shield from criminal activity on Vine, Republic and Green Streets. Ms. Cowden commented that the initial application was for an 8'-0" tall wood privacy fence, but that the design was modified on the suggestion of staff to better meet historic guidelines.

Margie Spinney and Gavin Leonard, representing CV LIHTC LLC, were present to answer questions from the Board. Ms. Spinney indicated her strong preference for an opaque fence to protect her tenants in a high crime area. A privacy fence would create a more secure courtyard, keep out trespassers, and reduce the trash that accumulates in the yard daily. Ms. Spinney asked that the Board make an exception for these reasons.

In response to Ms. Spinney, Mr. Senhauser stated that he would not be opposed to a solid brick wall or a well-designed solid fence; however, he understood that these options might be cost prohibitive. He also emphasized that privacy fences, where no one could see in or out, sometimes promote rather than deter criminal activity.

Ms. Sullebarger agreed with Mr. Senhauser. She stated that the Board is aware of the safety issues in this location, but she believed transparency promoted safety. Ms. Spraul-Schmidt concurred that an opaque fence or wall would create more opportunities for criminal behavior and victimization by preventing nearby tenants and pedestrians from seeing into the space.

Mr. Leonard articulated the need for a privacy fence in this specific instance and location, which he described as the most difficult corner in Over-the-Rhine. He listed the amount and types of litter thrown into the courtyard daily and indicated his belief that a solid fence would improve the situation. He asked for suggestions about different types of fencing.

Mr. Senhauser stated that the Board could only act on the current application. However, the Board would be open to considering a more opaque fence at a lower height, not to exceed 6'-0".

BOARD ACTION

The Board voted (motion by Sullebarger, second Raser) to take the followings actions:

1. Approve a Certificate of Appropriateness for the proposed new metal picket fence.
2. Approve the necessary Zoning Variance to permit the proposed 8'-0" tall fence finding that such relief from the literal interpretation of the Cincinnati Zoning Code will not be materially detrimental to the public health, safety and welfare or injurious to property in the district or vicinity where the property is located and
 - a. Is necessary and appropriate in the interest of historic conservation as not to adversely affect the historic architectural or aesthetic integrity of the district.

ADJOURN

As there were no other items for consideration by the Board, the meeting adjourned.

William L. Forwood
Urban Conservator

John C. Senhauser, Chairman

Date: _____